IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Om Prakash & Anr. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1056/2006
and

Om Prakash. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.1057/2006.
...

Date of Order: August 30, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Vineet Jain, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

Both these criminal miscellaneous petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) are directed against the order dated 2.5.2006 passed by the Additional Sessions Judge No.1, Bikaner (for short, "the Revisional Court" hereinafter) in Criminal Revision Petitions No. 120/2005 and 118/2005 respectively, whereby the revision petitions filed by the petitioners against the orders dated 31-8-2005 and 27-9-2005 passed by the Judicial magistrate, Loonkaransar, district Bikaner (for short, "the trial Court" hereinafter) in Criminal Cases No. 229/2003 and 210/2003 respectively, were dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders impugned passed by the trial Court as well as the Revisional Court.

By the orders dated 31-8-2005 and 27-9-2005 respectively, the trial Court framed charges for the offences under Sections 420, 467, 471 and 468 IPC against the petitioners. Both the orders of the trial Court framing the charges came to be challenged by the petitioners before the Revisional Court. The Revisional Court, vide impugned order dated 2-5-2006 dismissed the revision petitions. Hence these criminal miscellaneous petitions.

It is contended by the learned counsel for the petitioners that both the Courts below failed to consider the fact that the person claiming subsidy from the Government for transportation of fodder, the Depot Manager was required to obtain certain documents from the driver of the vehicle bringing the fodder, namely (i) the registration certificate of the vehicle, (ii) the driving licence, (iii) the receipt issued by the Dharmkanta from where the fodder was loaded, (iv) the certificate issued by the Dharamkanta authorized by the Government where a Government employee was posted, and (v) the certificate regarding receipt of the vehicle in the depot issued by the Sarpanch/Gram Sewak etc. In the instant case, the petitioners filed the bills along with the requisite documents as stated above

and, therefore, it cannot be said that the petitioners have forged any document. Learned counsel for the petitioners has taken to the record and the statements of various witnesses recorded by the police during investigation, including the statement of one Damodar Pareek.

On careful perusal of the statements of the witnesses, it appears that the trial Court has not properly considered the statements of the witnesses, as on careful perusal of the order of the trial Court, it nowhere appears that the trial Court has gone through the statements of various witnesses. In the circumstances, therefore, it would be appropriate requiring the trial Court to pass a fresh order giving reasons, may be in brief, for its conclusion.

In the result, both the criminal miscellaneous petitions are allowed. The impugned orders dated 31-8-2005 and 27-9-2005 passed by the trial Court, as also the order dated 2-5-2006 passed by the Revisional Court, are set aside. In the peculiar facts and circumstances of the case, the matters are remanded to the trial Court to pass a fresh and reasoned order by giving the reasonings, may be in brief, for its conclusion after giving opportunity of hearing to the petitioners.

(H.R. PANWAR), J.

mcs